Civil Writ Petition No. 5591 of 2001

Smt. Rekha Arya …… PETITIONER

Versus

Vice Chancellor, Kumaun University ……RESPONDENT

Hon'ble Irshad Hussain J.
Hon'ble M.M.Ghildiyal J.

The petitioner has filed this petition for a writ of mandamus against the respondent commanding him to cancel the advertisement dated 5th October 2001 so far as it relates to the post of the lecturer in Sanskrit and to call the petitioner for interview in response to the earlier advertisement issued in the month of September 1999, in respect of the post of Lecturer in Sanskrit. She further prayed that the respondent be directed to fulfill the reserved quota in the teaching staff of the Kumaun University, Nainital by appointing the petitioner to the post of the Lecturer in Sanskrit.

One post of Lecturer in the department of Sanskrit was lying vacant for which advertisement was initially issued in 1998, the thereafter in 1999 and on these occasions the post was reserved for scheduled caste. On account of non-availability of eligible candidate the post of lecturer in Sanskrit could not be filled in and ultimately on 14th October 2001 fresh advertisement was issued by the respondent University inviting applications for the said post showing the post as unreserved. The validity of said advertisement has been challenged by the petitioner on the ground that once the post of lecturer in Sanskrit was kept reserved for scheduled caste and the same could not have been unreserved subsequently on the ground that the Roster Committee of the University gave opinion that the post is lying vacant and is to be filled up by the candidate of general category.

We are not concerned whether the petitioner was eligible to be appointed on the post of Lecturer in Sanskrit but it has to be seen whether

the respondent was justified in un-reserving the said post by advertisement dated 14th October 2001.

The learned counsel for the respondent drew attention to the report of the Roster Committee of University (annexure CA-8 to the counter affidavit). In view of the Government Order dated 31.8.2001 (annexure CA-7) the Committee has recommended that the vacant post of Lecturer in Sanskrit have to be filled up by the candidate of general category since it falls in roster at point no. 5 which according to the Government order dated 31.8.2001 is unreserved. The Roster Committee of the University failed to take into account that as per Government order, out of the five posts of lecturer in Sanskrit Department one post should have been filled up by the candidate of reserved category. According to said G.O. one of the posts of lecturer was to be kept reserved for the candidate of scheduled caste at serial no.1 and if at the relevant time no eligible candidate was available, the post ought to have been advertised in the next year. considering this aspect the earlier advertisement was rightly issued by the respondent University, inviting application from the scheduled caste candidates but subsequently in view of the G.O. of roster issued by Uttaranchal Government said post could not be unreserved by issuing advertisement dated 14.10.2001.

The action of the respondent is, therefore, in violation of Government order dated 31.8.2001 and in view of the same the impugned advertisement is held illegal and the respondent is directed to issue afresh advertisement inviting applications from the scheduled caste candidates only so that the post of Lecturer in Sanskrit may be filled up according to the Government Order dated 31.8.2001 by the candidate of reserved category. The petition is finally disposed of accordingly.

(M.M.Ghildiyal,J.) **(Irshad Hussain, J.)**

25.06.2003
Dhyani